



33 East Main Street
Suite 900
Madison, Wisconsin 53703
608.251.5000
Fax 608.251.9166
www.quarles.com

Attorneys at Law in
Chicago
Indianapolis
Madison
Milwaukee
Naples
Phoenix
Scottsdale
Tampa
Tucson
Washington, D.C.

Writer's Direct Dial: 608.283.2407
E-Mail: val.bailey@quarles.com

May 12, 2015

1:15-cv-343-RP

The Hon. Robert Pitman
United States District Court for the Western District of Texas
501 West 5th Street
Suite 5300
Austin, TX 78701

***RE: Amicus Letter in Support of Teladoc, Inc. and Teladoc Physicians P.A.'s,
(collectively "Teladoc") Motion For A Temporary Restraining Order***

Dear Judge Pitman:

We represent the Texas Association of Business and are filing this amicus letter in opposition to the Texas Medical Board's ("TMB") adopted revisions to the Texas Administrative Code § 190.8(1)(L) ("New Rule 190.8"). New Rule 190.8 is expected to take effect on June 3, 2015, absent this Court granting Teledoc's Motion for a Temporary Restraining Order and Preliminary Injunction. We urge the Court to enter the Preliminary Injunction for the following reasons.

For more than 90 years, the Texas Association of Business has sought pro-business pro-Texas policies that keep the Texas economy strong and its work force competitive. The New Rule 190.8, requiring that a physician perform an in person physical examination before treating a patient, regardless of medical necessity, will result in higher healthcare costs without any corresponding benefit to patients. The only apparent benefit is to physicians, who will face less competition.

The Texas Association of Business serves more than 4600 member businesses across the state in addition to more than 200 chambers of commerce. These member businesses employ some of the more than 2.5 million Texans that have access to telehealth services today and who would lose that access under New Rule 190.8.

There is a shortage of primary care physicians in Texas, resulting in a number of medically underserved counties. Thus, telehealth services like Teladoc are a vital tool for Texas doctors and their patients and they lead to better workforce management and an effective cost containment tool for employers. Some estimates suggest that Texas employers and workers have

The Hon. Robert Pitman
May 12, 2015
Page 2

saved more than \$100 million in healthcare costs during the last six years alone by using telehealth services. Rural communities, hospital systems, and employers of all sizes from every sector of the Texas economy have benefitted from telehealth.


If New Rule 190.8 is in effect, these cost savings will be lost. The Texas Association of Business would understand the purpose of New Rule 190.8 if there were any data demonstrating concerns for patients' safety. However, there has not been a single malpractice claim against Teledoc. And we are not aware of any research or data that would raise concern for patient safety from telehealth services.

Teledoc, a Texas based company, is one of the largest providers of telehealth services in the country. Teladoc physicians are board-certified, state-licensed and average 20 years of experience. Teladoc is certified by the National Committee for Quality Assurance and has operated in Texas for more than 10 years with a strong patient safety record devoid of even a single malpractice claim. The Texas Association of Business takes job growth seriously and recognizes that Teladoc is an important element of telehealth in an area where Texas should continue to lead the way, instead of being left behind.

The Texas Association of Business believes the actions of the Texas Medical Board violate both the spirit and the letter of the law by illegally limiting competition under the guise of protecting health and safety. The Board's rule is out of step with other states that have expanded telehealth in a ways that protect patient safety while preserving this cost effective health care option. The Board has put self-interest ahead of the public good.

Restricting telehealth in Texas is bad for business, bad for healthcare providers and consumers, and moves Texas in the wrong direction. Accordingly, we urge you to enjoin New Rule 190.8 and preserve the status quo, so that Texans can maintain the access to telehealth they have enjoyed for years.

Very truly yours,



Valerie L. Bailey-Rihn

cc: Amanda Montagne Martin